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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/823,795

04/14/2004

Daniel R. Feldmeier

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EXAMINER

CHIVUKULA, SURAJ

ART UNIT

PAPER NUMBER

1709

MAIL DATE

DELIVERY MODE

08/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/823,795 | FELDMEIER ET AL. | |
| | Examiner | Art Unit | |
| | Suraj Chivukula | 1709 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/25/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/29/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The references listed in the Information Disclosure Statement filed on June 29, 2004 has been considered by the examiner (see attached PTO-326 form).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castellanos et al. (U.S. Patent 7,172,779; hereinafter Castellanos) in view of Wells et al. (U.S. Patent 5,795,604; herinafter Wells).
4. Regarding claims 2-3, and 5, Castellanos teaches tray transparency and lid transparency to permit visible inspection of at least about 70% of the product (Figure 1A, claim 34, Detailed Description of the Preferred Embodiments (24, 25)).

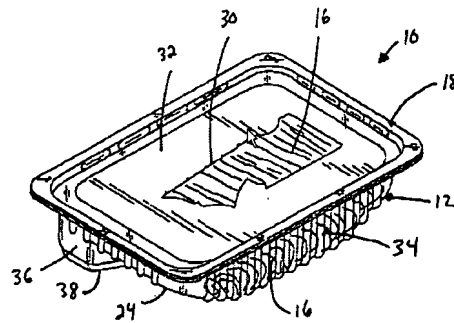


FIG. 1A

5. Regarding claims 4 and 17, Castellanos teaches a tray member having transparency properties to permit inspection (Detailed Description (24)). It would have been obvious to one of ordinary skill in the art at the time the invention was made for the tray to be made of an opaque plastic for those instances where one wished to hide part of the contents as it may not be appealing.

6. Regarding claims 1, 6-9, Castellanos teaches lugs and recesses that provide some resistance to the unintended opening of the food package (Figure 1A, Figure 13, Detailed Description (60)).

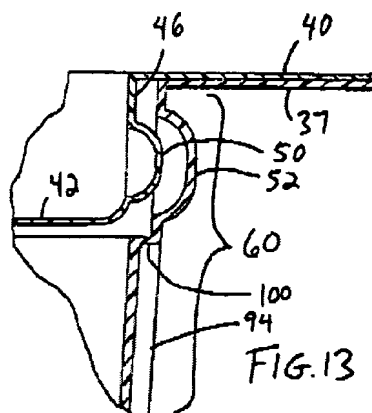
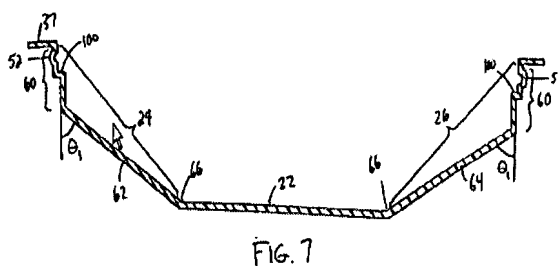


FIG. 13

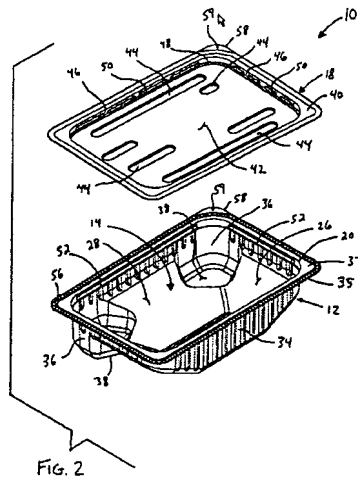
7. Regarding claims 10-11, Castellanos teaches an oblique angle for the inclined ramp sections (Figure 7, claim1) with decline angles of ramp sections between 55 degrees and 75 degrees translating to incline angles of between 35 degrees and 15 degrees. Castellanos teaches a difference in inclination angles between the two base portions of 0 degrees to 20 degrees (Detailed Description of Preferred Embodiments (46)). It would have been obvious to one of ordinary skill in the art at the time the invention was made for the package to have inclination angles in the range from about 20 degrees to about 40 degrees and a difference, in inclination angles, between the two base portions of about 3 to about 10 degrees.

8. Regarding claim 12, Castellanos teaches each inclined base portion with a width less than the width of the central base portion (Figure 7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the width of the inclined base portion to support the meat products while at the same time allowing the meat to sit flat.



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Regarding claims 13, 18, and 21, Castellanos teaches forming a heat seal between tray member flange to cover member flange to have a rupturable interface (Figure 2 #37 and #40, claim 20).



9. Regarding claims 14 and 22, Castellanos teaches use of a moldable film (claim 27) formed by thermoforming (Detailed Description of Preferred Embodiments (24)).

10. Regarding claim 20, Castellanos teaches the food package as being gas flushed (Detailed Description of Preferred Embodiments (57)).

11. Castellanos teaches generic meat but fails to specifically disclose bacon. Wells teaches a rigid, substantially transparent bacon package of similar materials.

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12. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have packaged bacon in the packaging taught by Castellanos as the packaging is useful for meat. Regarding the exact size and shape of the package. It would have been obvious to one having ordinary skill in the art the time the invention was made to have optimized the size and shape of the package taught by Castellanos to hold bacon taking the size of bacon and other bacon packaging such as Wells into account.

Conclusion

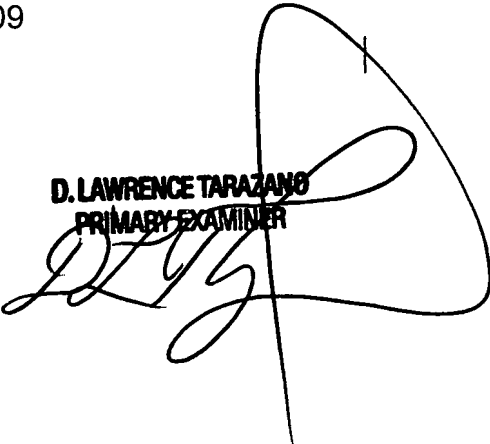
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suraj Chivukula whose telephone number is (571) 270-3471. The examiner can normally be reached on M-F 7:30am-5:00pm EST (1st Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Suraj Chivukula
Examiner
Art Unit 1709

D. LAWRENCE TARAZANO
PRIMARY EXAMINER

A large, stylized handwritten signature in black ink, likely belonging to D. Lawrence Tarazano, is written over the printed name and title. The signature is fluid and cursive, with a large loop at the end.